

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Crl. Rev. No. 54 of 2005(O&M)
Date of decision:- 8.3.2011

Jaswinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM:- HON'BLE MR. JUSTICE GURDEV SINGH

Present:-None for the petitioner.

Mr. P.S.Paul, DAG, Punjab.

Gurdev Singh, J (oral)

This revision petition has been preferred by Jaswinder Singh-
petitioner/accused against the judgment dated 6.12.2004 passed by
Additional Sessions Judge, Muktsar, vide which he dismissed the appeal
preferred by the accused against the judgment dated 27.11.2002 passed by
Judicial Magistrate, Ist Class, Muktsar, vide which he convicted the accused
for the offences under Sections 279, 337, 338 and 304A IPC and sentenced
him as under:-

Offence	Sentence	Fine	Indefault
279 IPC	RI Six months	₹500/-	R.I. For one month
337 IPC	RI Six months	₹500/-	R.I. For one month
338 IPC	RI Six months	₹500/-	R.I. For one month
304A IPC	RI Two years	₹500/-	R.I. For one month

The prosecution story, in brief, is that on 8.3.1998 Inder Singh-
deceased along with Dogar Singh PW1 was proceeding from Village Wattu
towards Village Ladhu Wala Uttar on motorcycle make Hero Handa and

they were followed by Malkiat Singh-complainant PW2 and his friend Satbir Singh, who were coming on scooter. At about 6.00 PM, when they had covered a distance of about 7/8 Kms from Muktsar, the accused came driving motor car make Maruti bearing No. PB-60-0296 from the opposite side at a very fast speed. By driving that car rashly and negligently he struck the same in the motorcycle, which was being driven by Dogar Singh, as a result of which both the riders thereof fell on the road. Both of them received injuries and Inder Singh, succumbed to those injuries at the spot itself. The accused did not stop the car and escaped from the spot. In the meanwhile, Baljit Singh came to the spot with a jeep and Dogar Singh was removed in the same to Civil Hospital Muktsar. On the receipt of information regarding the admission of that injured, Nirmal Singh ASI PW7 went to that place where Malkiat Singh-complainant met him. He recorded his statement Ex.PA about this accident and after making his endorsement Ex.PA/1 upon the same sent that to the police station, on the basis of which formal FIR Ex.PA/2 was recorded under Sections 279,304A,337 and 338 IPC. The ASI moved an application to enquire about the fitness of the injured. He was declared unfit to make his statement. He went to the place of accident and prepared the inquest report in respect of the dead body of the Inder Singh-deceased and sent the same to the hospital for post mortem examination. It had become dark and as such ASI could not take further proceedings. He went to the place of accident on the next day and prepared rough site plan with the correct marginal notes. He called the photographer to the spot, who took the photographs. He collected blood stained earth from the spot, which was put in two different small boxes and the same

were duly sealed with his seal 'NS'. Those sealed parcels were taken in the possession, vide memo Ex.PW7/E. The damaged motorcycle was found lying at the spot which was having No. PB-04C-5520. The same was taken into possession vide memo Ex.PW7/F. The damaged front wind screen, which appeared to be that of Maruti car on which No.PB-60-0296 was engraved, was found at the spot. The same was taken into possession vide Ex.PW7/G. On coming back to the police station the ASI deposited the case property with the MHC. The autopsy on the dead body of the deceased was performed by Dr. Sukhpal Singh PW3, who found ante mortem injuries on the same, who gave his opinion that the cause of death was due to shock and hemorrhage and all the injuries were sufficient to cause the death in the ordinary course of nature. Statement of Joginder Singh PW5 was recorded under Section 161 Cr.P.C, who came out with the version that this accident was caused on account of rash and negligent driving of the car bearing No. PB-60-0296 by Jaswinder Singh-accused, who was already known to him. On 26.3.1998 the accused was arrested and he produced the above said car, which was taken into possession vide memo Ex.PC. The registration certificate of the car and the driving license were taken into possession vide memo Ex.PB. Vehicles involved in the accident were mechanically tested by Mit Singh, who gave his reports Ex.PW6/A and PW6/B. The injuries on the person of Dogar Singh were subjected to radiological examination and on the basis of the X-ray report injuries No.1 and 2, found on his person, were declared dangerous and grievous. After the completion of the investigation the challan was put in before the JMIC, who found sufficient grounds to presume that the accused committed offences punishable under

Sections 279,304A, 337, 338 IPC. He was charged accordingly, to which he pleaded not guilty and claimed trial.

To prove the guilt of the accused prosecution examined Dogar Singh injured PW1, Malkit Singh complainant PW2, Dr. Sukhpal Singh PW3, ASI Balbir Singh PW4, Joginder Singh PW5, Mit Singh PW6, ASI Nirmal Singh PW7, Harbans Singh PW8, Sukhwinder Pal Singh PW9, Dr. Anil Mittal PW10. After the evidence was closed by the prosecution the accused was examined by the trial Court and his statement was recorded under Section 313 Cr.P.C. The incriminating circumstances appearing against him were put to him in order to enable him to explain the same. He denied all those circumstances and pleaded his innocence. He stated that the on 8.3.1998 his car had been borrowed by his relations and the same was not being driven by him. The accused was called upon to enter on his defence. On 26.11.2002, the trial Court re-recorded the statement of the accused under Section 313 Cr.P.C on the ground the some of the incriminating evidence had not been put to him. At that time also he denied all those circumstances. He did not produce any evidence in his defence.

This revision petition was admitted to be heard on merits. No one appeared on behalf of the petitioner. The same is being decided by examining the records and hearing learned State counsel and going through the grounds taken up in the revision petition.

As contented in the revision petition the name and description of the person, who was driving the car at the time of accident, was not given by Malkiat Singh complainant in his statement made before the police and even the number of the car was not so disclosed. However, when that

witness was examined in the Court, he deposed about all the facts which constitute the prosecution version and according to him the death of Inder Singh and hurt to Dogar Singh were caused by driving the car rashly and negligently by the accused. The prosecution is not relying only on his statement. It examined Dogar Singh PW1, who was driving the motor cycle at the time of accident and received injuries. His presence at the spot cannot be disputed. As the car had come from the front side, so he was in a position to note down the registration number of the car and the distinctive features of the driver thereof, which ultimately helped him in identifying the accused in the Court as the person who was driving the car at the time of the accident. He made categorical statement that on 8.3.1998 he alongwith Inder Singh was going on motor-cycle bearing registration No. PB-04C-5520 to village Ladhu Wala Uttar and at the time the motor-cycle was being driven by him. When at about 5.30/ 6.00 PM they had covered a distance of 6/7 Km from village Wattu, the accused came driving car make Maruti bearing No. PB-60-0296 at a very fast speed from the front side. He took his motor-cycle on his left hand side on the kacha portion of the road and still the car was struck in his motorcycle as a result of which his right leg and right arm was badly crushed and Inder Singh died at the spot itself. He also stated that the accused was already known to him as he had been running the shop in the village of his in-laws. Nothing could be elicited by the accused during his cross-examination on the basis of which it may be held that the accused was not known to him previously or he was not in a position to note down the registration number of the car or that the same was not being driven by him. Prosecution also examined Joginder Singh

PW5 and he came out with the version that he was present when this accident took place. He has fully corroborated the statement of Dogar Singh PW1. According to him also, the accused was already known to him and he duly identified him on the spot. He made it clear during his cross-examination that he is dealing in tractors and three and a half years back he had gone to the house of the accused, who was interested to sell his tractor make International. The way in which that witness made his statement in the Court full confidence has inspired therein.

The prosecution also produced other evidence which connects the car of the accused with this accident. It was not denied by the accused that this car was owned by him. He took up the plea that on 8.3.1998 his car had been borrowed by his relation and the same was not being driven by him, but he never disclosed the name of that relation nor that relation was examined in the Court for supporting his stand. It was stated by ASI Nirmal Singh PW7 that one broken front wind screen of the car was found lying at the place of accident on which No. PB-60-0296 was engraved and the same was taken into possession. After the accused was arrested by him on 26.3.1998, he produced the car bearing that registration number, which was taken into possession vide memo Ex.P3. That very car was mechanically tested by Mit Singh, Mechanic PW6, who proved his reports as PW6/A. At that time he found that the front wind screen of the car was missing. That proves that the broken front wind screen found at the spot was that of the car of the accused and that further establishes that it was his car which was struck in the motor-cycle.

After having examined the records of the trial Court and the appellate

Court this Court has come to the conclusion that the finding of conviction and sentence so recorded by the trial Court and upheld by the appellate Court is neither perverse nor illegal nor can said to be the result of misreading of the evidence.

No ground is made out for interfering in the finding of conviction and sentence so recorded by those Courts.

The revision petition is dismissed accordingly.

Records be returned forthwith.

March 8, 2011
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(Gurdev Singh)
Judge